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ATTORNEYS FOR PLAINTIFF
UNITED STATES OF AMERICA

IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF MONTANA
HELENA DIVISION

UNITED STATES OF AMERICA, Plaintiff, vs. JOHN RUSSELL HOWALD, Defendant.	CR 21-04-H-BMM BRIEF IN SUPPORT OF MOTION FOR PRELIMINARY ORDER OF FORFEITURE
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The United States of America, by and through its counsel, has filed an unopposed motion for a preliminary order of forfeiture. In support of that motion, the United States sets forth the following facts:

1. On February 17, 2023, the defendant was found guilty of both charges contained in the superseding indictment. (Doc. 131). Following the guilty verdicts, the parties addressed the superseding indictment's forfeiture allegation, and the defendant ultimately admitted the forfeiture allegation. (Doc. 131). Prior to that admission, counsel for the government advised him through counsel that the United States was seeking forfeiture of those items that had been identified in the proposed forfeiture verdict form, namely Government Exhibits 1-18. (Doc. 109). The Court also inquired about what items the government was seeking to forfeit, with the same response. The defendant stipulated to the forfeiture of those specific items.

2. The forfeiture allegation contemplates the forfeiture of the defendant's right, title, and interest in any firearms and ammunition items involved in and used in the offenses charged in the Indictment. 18 U.S.C. § 924(d).

3. Following trial, the undersigned was advised that the ATF had previously administratively forfeited Government Exhibit 5 (an AR style rifle recovered March 24, 2020, with no serial number). Accordingly, judicial forfeiture as to that particular item is not necessary or further sought by this motion.

4. A Preliminary Order of Forfeiture is necessary in order for the United States Marshals Service and the ATF and DEA to seize and pursue forfeiture of the balance of Government Exhibits 1-18. Those items are described in particular in Attachment A to this brief.

5. The evidence set forth at trial, this brief, the Defendant's admission of the forfeiture allegation, and the Defendant's stipulation to the forfeiture of these particular items all provide an ample basis for an order of forfeiture in accordance with 18 U.S.C. § 924(d).

5. Pursuant to Rule 32.2 of the Federal Rules of Criminal Procedure, the Court may enter a Preliminary Order of Forfeiture after a verdict has been returned containing a finding that property is subject to criminal forfeiture or if a defendant enters a guilty plea subjecting property to such forfeiture, or through admission or stipulation. Rule 32.2 does not require the Court to await sentencing in order to commence the ancillary proceeding by entering its Preliminary Order of Forfeiture.

6. Upon issuance of a Preliminary Order of Forfeiture, the United States will provide written notice to all third parties asserting a legal interest in any of the above-described property and will post on an official government internet site (www.forfeiture.gov) for at least 30 consecutive days as required by Rule G(4)(a)(iv)(C) of the Supplemental Rules for Admiralty or Maritime Claims and Asset Forfeiture Actions, of the Court's Preliminary Order and the United States'

intent to dispose of the property in such manner as the Attorney General may direct, pursuant to 18 U.S.C. §§ 924(d) and 982(b)(1).

Accordingly, the United States respectfully requests that this Court enter a preliminary order of forfeiture forfeiting the Defendant's interest in the property described in Attachment A and ordering the USMS and the ATF to seize the forfeited property pending the adjudication of any third party claims and then to dispose of it in accordance with the law.

DATED this 17th day of March, 2023.

JESSE A. LASLOVICH
United States Attorney

/s/ Ethan R. Plaut
ETHAN R. PLAUT
Assistant U.S. Attorney

/s/ Eric Peffley
Trial Attorney

ATTACHMENT A – ITEMS SUBJECT TO FORFEITURE

D. Mont. CR 21-04-H-BMM

- Government Exhibit 1 – Four (4) 7.62x39mm cartridge cases recovered on March 22, 2020.
- Government Exhibit 2 – Seven (7) 7.62x39mm cartridge cases recovered on March 22, 2020.
- Government Exhibit 3 – Two (2) rounds of 7.62x39mm ammunition recovered on March 22, 2020.
- Government Exhibit 4 – One (1) fired bullet recovered on March 22, 2020.
- Government Exhibit 6 – Two (2) rifle magazines recovered on March 24, 2020.
- Government Exhibit 7 – Forty-two (42) rounds of 5.56 caliber ammunition recovered on March 24, 2020.
- Government Exhibit 8 –Smith & Wesson Model 657, .41 Remington Magnum caliber revolver (SN ANN1115) recovered on March 24, 2020.
- Government Exhibit 9 – Springfield Armory HS Produkt Model XD-S, .45 ACP caliber pistol (SN XS589025) recovered on March 23, 2020.
- Government Exhibit 10 –Fourteen (14) rounds of .45 caliber ammunition recovered on March 23, 2020.
- Government Exhibit 11 – AK style 7.62x39mm caliber rifle (SN 1983S-AT4293) recovered on April 8, 2020.
- Government Exhibit 12 – One (1) round of 7.62x39 mm ammunition recovered on April 8, 2020.
- Government Exhibit 13—Two (2) rifle magazines recovered on April 8, 2020.
- Government Exhibit 14 – Thirty (30) rounds of 7.62x39mm ammunition recovered on April 8, 2020.
- Government Exhibit 15 –Mossberg Model 100 ATR, 30-06 caliber rifle (SN BA328083) recovered on April 8, 2020.
- Government Exhibit 16 – Four (4) rounds of 30-06 ammunition recovered on

April 8, 2020.

- Government Exhibit 17 – Assorted ammunition recovered on April 8, 2020.
- Government Exhibit 18 – Two holsters and one magazine recovered on March 23rd and 24th, 2020.